

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION**

SALVATORE CANDELA, :
Petitioner, :
vs. :
:

ALBERTO GONZALES,
MICHAEL CHERTOFF,
WARDEN DAVID O. STREIFF,
:
:

Respondents.

ORDER

A hearing was conducted on June 21, 2007 by the undersigned District Judge on the Report and Recommendation of the Magistrate Judge, dated April 6, 2007 (Doc. 20) and petitioner's response thereto (Doc. 22) dated April 22, 2007. Present at the hearing were Assistant United States Attorney Charles Baer, Esq.; Assistant United States Attorney Eugene Seidel, Esq.; Christopher Fuller, Esq., United States Department of Justice, and petitioner, Salvatore Candela. After due and proper consideration of the testimony presented at the hearing, along with the pleadings and exhibits in this file, and a *de novo* determination of those portions of the Recommendation to which objection is made, the Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) is adopted as the opinion of this Court *with the following additional findings of fact:*

Plaintiff's detention was last reviewed in September of 2005. Since that time plaintiff has remained recalcitrant in his position and persists in his actions to obstruct the process for his timely removal, pursuant to the removal order. It is the determination of the Court that

plaintiff's actions have led to his continued detention.

On December 20, 2006 plaintiff continued in his refusal to provide information regarding his true nationality or any other information necessary to assist officials in the deportation process. (See Doc. 29, Exhibit 8) Shortly thereafter, in a letter dated January 12, 2007, from plaintiff to the Ambassador of the Pakistan Embassy, plaintiff denied that he is a Pakistani citizen, but failed to provide any information about his nationality. (Government's Exhibit "A") Approximately three (3) weeks later, on February 6, 2007, in an application for a passport submitted to the Pakistan Embassy, plaintiff again failed to indicate his place of birth or to give any information regarding his nationality or any other information that would assist in the removal process. (Doc. 29, Exhibit 4)

At the hearing on June 21, 2007, the Court heard the testimony of Janine Sanchez who has been a deportation officer for Mr. Candela since July 2006. Ms. Sanchez testified that on numerous occasions she attempted, unsuccessfully, to elicit information from Mr. Candela which would assist in the removal process. Each time plaintiff failed or refused to provide the necessary information. (Testimony of J. Sanchez, June 21, 2007)

The Court also heard from CeCilio Banuelos, a deportation officer assigned to plaintiff's case since April 2007. Mr. Banduelos testified that he has attempted to elicit information from plaintiff to assist in the deportation process, including an effort to verify the nationality of plaintiff's parents, but that plaintiff has refused to be cooperative in this effort. Mr. Banduelos further testified that plaintiff continues to refuse to provide helpful information regarding previous employment or schools he attended. (Testimony of C. Banuelos, June 21, 2007)

Finally, when questioned during the hearing, plaintiff denied in open Court knowing any

information that could assist the Court in determining the proper country for his deportation.

Based on the Report and Recommendation of the Magistrate Judge, along with the evidence presented at the hearing, it is **ORDERED** that this action be **DISMISSED**.

DONE the 22nd day of June 2007.

/s/ Kristi K. DuBose
KRISTI K. DUBOSE
UNITED STATES DISTRICT JUDGE